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gard the grantee's equity and on partition should allot the parcel to the grantor, or as a short cut directly to the grantee. *McNeil v. McDougall*, 28 N. S. 296. But in the principal case there is a further difficulty. Partition is asked of the parcel alone. It is well settled that partition of a part of a larger tract held in common will not be granted. It would seem that the plaintiff's bill should on this ground have been dismissed. *Barnes v. Lynch*, 151 Mass. 510, 24 N. E. 783; *Emeric v. Alvarado*, 90 Cal. 444, 27 Pac. 356. Moreover, the defendant's cross bill for a partition of the whole is ineffectual, for while he may, as shown, obtain rights on partition, before that he has no rights against the grantor's cotenants and therefore cannot demand partition. *Soutter v. Porter*, *supra*. The court evidently considered that it had power to make partition of the whole so as to determine equitably the interests of all parties, because the jurisdiction of equity had been invoked in the matter. But a court of equity cannot give relief beyond the scope of the pleadings. *Waldron v. Harvey*, 54 W. Va. 608, 46 S. E. 603.

TORTS — DEFENSES — STATUTORY AUTHORITY. — A metal post owned by the defendant street car company, which was operating under legislative franchise, became electrified without its fault. The plaintiff touched it and was burned. *Held*, that the plaintiff may recover. *Fullarton v. North Melbourne Electric Tramways & Lighting Co. Ltd.*, [1916], Vict. L. R. 231.

For a discussion of this case, see NOTES, p. 377.

WATERS AND WATERCOURSES — FLOOD WATERS — ACCELERATING FLOW BY ARTIFICIAL DEPRESSIONS. — The Colorado River at the time of the formation of the Salton Sea was doing unprecedented damage by inundating large portions of the country and was threatening the defendant's valuable irrigation system. The river had permanently left its old channel and was making rather successful efforts to cut a new one. The defendants caused the rock which was retarding the cutting of this new channel to be blasted and the result was a rapid flow of the water from off the submerged territory, and a resulting erosion and gulying of the plaintiff's land which had been submerged. *Held*, that the plaintiff cannot recover. *Jones v. The California Development Co.*, 52 Cal. Dec. 473.

Under the "common enemy" rule, often miscalled the common law rule, surface waters may be fought off by landowners in any way they see fit regardless of consequences. *Gannon v. Hargadon*, 92 Mass. 106; *Bowlsby v. Speer*, 31 N. J. L. 351; *Cairo & Vincennes R. Co. v. Stevens*, 73 Ind. 278. See 14 HARV. L. REV. 390. But California has adopted the so-called "civil law rule" of surface waters. *Ogburn v. Connor*, 46 Cal. 346. Under this rule the natural course of drainage cannot be interfered with, and a right is recognized to have surface water pass in its natural channels. See DOMAT, CIVIL LAW, Cushing's ed., § 1583. But even under the civil law rule, a landowner may reasonably improve natural drainage and hasten the flow of water from his lands, over the lands of a lower proprietor without liability for resulting damage. *Pohlman v. Chicago, etc. R. Co.*, 131 Ia. 89, 107 N. W. 1025; *Sowers v. Schiff*, 15 La. Ann. 300; *Guesnard v. Bird*, 33 La. Ann. 796. Thus the principal case can be supported by regarding the waters of the vagrant river as surface waters and the method of drainage a reasonable one. If, however, the waters be considered as flood waters, the ordinary rule does not apply, and the owners of land along the river have a right to construct levees or embankments for the protection of their lands from the ravages of the flood. *Cubbins v. Mississippi River Commission*, 241 U. S. 351. And this is true although the effect thereof may be to prevent the free discharge of such flood waters as may tend to increase the flow of water upon lands not similarly protected. *Lamb v. Reclamation Dist.*, 73 Cal. 125, 14 Pac. 625; *McDaniel v. Cummings*, 83 Cal.

515, 23 Pac. 795. Nor should the rule be affected by the fact that the channel is deepened, as here, by being depressed below the surface instead of by elevating the banks by the erection of levees. The court in the principal case, however, has apparently reached its conclusion, not by placing the case within the technical confines of any of these rules, but by generally determining the rights of the parties by the reasonableness of their actions. See 2 FARNHAM, LAW OF WATERS, § 889.

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## BOOK REVIEWS

**CRIMINALITY AND ECONOMIC CONDITIONS.** By William Adrian Bonger. Translated by Henry P. Horton. Boston: Little, Brown & Company. 1916. pp. xxxi, 706.

Seven years ago the American Institute of Criminal Law arranged, as a part of its educational work, to secure the translation of some of the more important foreign treatises on criminology. Dr. Bonger's work appears as the eighth number of this Modern Criminal Science Series.

William A. Bonger is a prominent Dutch publicist who has given special attention to the problems of crime. He is the author of "Religion and Crime" and numerous articles in Dutch and German periodicals on crime and its treatment. The Socialist point of view is very apparent in Dr. Bonger's writings, and it is doubtless the desire to bring before American readers the views of criminality held by this important school of European thought that has led to the selection for translation of "Criminality and Economic Conditions."

In style of presentation Dr. Bonger is somewhat academic. Almost half of the work is devoted to a critical exposition of the literature dealing with the relations of criminality and economic conditions. Space is even taken for the presentation of the views of men like Thomas More and Rousseau who wrote before the birth of modern criminal science. More recent writers are grouped under the titles Statisticians, Italian School, Bio-Socialists, Spiritualists, and others. The views of each are suggested by extracts and interpretations. Where Dr. Bonger differs in opinion he states his criticisms forcibly. Of one author he says that a complete criticism would require "a whole book, — so great is the number of his errors and omissions."

In summing up this review of the literature the author finds that a very small proportion of the writers deny the existence of a relation between criminality and economic conditions — the great majority are of the opinion that economic conditions occupy a more or less important position, but that other factors are also at work — while a small number are of the opinion that the influence of economic factors is sovereign. Of the third group Dr. Bonger says, "I have been able to find no inaccuracies in the foundations of their theses."

Part Two of "Criminality and Economic Conditions" contains the author's own discussion of the problem of crime. In the opening chapter one finds a brief but effective statement of the orthodox Socialist view of the present economic system. From the essential injustice of the system flow the outstanding evils of society. Prostitution is "the consequence of existing social conditions, which, in their turn, spring from the economic system of our time." "Alcoholism has its deeper causes in the material, intellectual and moral poverty created by the economic system now in force." Militarism is "a consequence of capitalism."